

Ravalli County Planning Board
Meeting Minutes for August 16, 2006
3:00 p.m.
Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana

Public Hearing
Reynolds Lot 1B, AP (Edinger) Subsequent Minor Subdivision
Sunnyside Orchards No. 4, Block 21, Lot 8A, AP (Price) Minor Subdivision

*This is a summary of the meeting, not a verbatim transcript. A CD of the meeting
may be purchased from the Planning Department for \$5.00.*

1. Call to order

Dan called the meeting to order at 3:03 p.m.

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Members

Mary Lee Bailey (present)
Dale Brown (present)
Ben Hillicoss (present)
Dan Huls (present)
JR Iman (present)
Chip Pigman (present)
Les Rutledge (present)
Lori Schallenberger (present)

Park Board Representative: Bob Cron (present)

(B) Staff

Benjamin Howell
Karen Hughes
John Lavey
Jennifer De Groot

3. Approval of Minutes

Dan asked if there were any corrections or additions to the minutes from July 12, 2006. There were none. The minutes were approved. He asked if there were any corrections or additions to the minutes from July 17, 2006. There were none. The minutes were approved. He asked if there were any corrections or additions to the minutes from July 24, 2006. There were none. The minutes were approved. He asked if there were any corrections or additions to the minutes from August 2, 2006. There were none. The minutes were approved.

4. Amendments to the Agenda

There were none.

5. **Correspondence**

There was none.

6. **Disclosure of Possible/Perceived Conflicts**

There were none.

7. **Public Hearing**

(A) **Reynolds Lot 1B, AP (Edinger) Subsequent Minor Subdivision**

- (i) Staff Report on the Subdivision Proposal: **John Lavey** gave a PowerPoint presentation. He gave an overview of the proposal and stated Staff recommended approval of the subdivision subject to nine conditions listed in the Staff Report. He entered the Staff Report into the record. (See Attachment B, Reynolds Lot 1B, AP Staff Report)

- (ii) Three Minute Rule Waivers

There were none.

- (iii) Public Comment on the Subdivision

- (a) Persons in Favor

Becky Weaver of PCI said that she is in agreement with the proposed conditions and proposed a voluntary school contribution of \$250 per lot prior to final plat approval.

- (b) Persons Opposed

Don Bessire said that he is an adjacent property owner and is not opposed to the subdivision, but noted that the proposed road would be 37 feet from his master bedroom. He said he was concerned with dust, dirt, and traffic so close to his residence. He asked if anyone had considered moving the road to the north because in its current proposed position, it is close to his property and a duplex on Cooper Lane.

- (c) Rebuttal

Becky Weaver said the road will be paved and traffic will be minimal due to the small size of the subdivision. She said the applicant did not consider putting the road in the north because an easement across Lot 1A was granted, which governs the road location.

- (d) Close: Public Comment

- (iv) Board Deliberation on the Subdivision Proposal

- (a) Board discussion and questions

Chip noted that although the applicant agreed to Condition 4, he asked why it was conditioned even if there was no agency report from the agency.

Karen said that the County Commissioners had made a blanket finding that there is some level of impact from each subdivision on schools from the period between when the home is developed to when it goes on the tax rolls. She noted that the County Commissioners felt impacts from subdivisions need to be mitigated.

Chip noted that the condition of requiring a 75% efficient heat source was outdated because models with less efficiency are not sold anymore.

Lori asked if the County Commissioners wanted the school donation to be paid at first conveyance of the lot.

Karen responded that the County Commissioners had primarily indicated that the impact should be mitigated.

JR asked if the applicant was giving up Daly Ditches water.

Becky Weaver said that the applicant has approval from Daly Ditches, which involves existing pipeline easements.

Chip motioned to approve the subdivision based on the findings of fact and subject to the conditions in the Staff Report; he said that Condition 4 would be \$250 and paid at first conveyance.

Les seconded the motion.

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion.

(2) Board Decision

The vote was called; the members voted (8-0) to approve the Subdivision. (See Attachment C, Reynolds Lot 1B, AP Vote Sheet)

(B) Sunnyside Orchards No. 4, Block 21, Lot 8A, AP (Price) Minor Subdivision

- (i) Staff Report on the Subdivision Proposal: **Benjamin Howell** gave a PowerPoint presentation. He gave an overview of the proposal and stated Staff recommended approval of the subdivision subject to 11 conditions listed in the Staff Report. He entered the Staff Report into the record. (See Attachment D, Sunnyside Orchards No. 4, Block 21, Lot 8A, AP Staff Report)

- (ii) Three Minute Rule Waivers

There were none.

(iii) Public Comment on the Subdivision

(a) Persons in Favor

Terry Nelson of Applebury Survey said he agrees with the Staff Report. He clarified that although \$250 was the proposed school donation, since the lots will be served by two different school districts, the proposed donation to each district will be \$125 on the close of each lot. He also noted that Jake Kammerer introduced the heat source efficiency condition in 2000 when the fire season was at a peak.

(b) Persons Opposed

Dick Teman said that he is an adjacent property owner and is not opposed to the subdivision, but asked if there were proposed covenants for the new lots to protect the adjoining property owners. He passed out pictures of the proposed area. (See Attachment E, Pictures of the Price property) He said that an irrigation line from BRID runs through his property without an easement. He noted that he allowed Dick Price to access his lot for the irrigation pipeline, but he does not want to extend the agreement to multiple homeowners.

(c) Rebuttal

Terry Nelson said that although no covenants are currently proposed, Dick Price can discuss the possibility of covenants with his neighbor. He also noted that BRID approved the applicant's plans.

(d) Close: Public Comment

(iv) Board Deliberation on the Subdivision Proposal

(a) Board discussion and questions

Ben asked Mr. Teman what the pictures were supposed to show.

Dick Teman said they were to show what the adjacent property looks like. He said it contains a bunch of junk and two trailers. He asked about covenants and if the area will get better or worse.

Grant Winn said he was an adjacent property owner and agreed with Mr. Teman's comments.

JR asked if the pipe leading to the Price property is the Three Mile Line off Big Ditch.

Dick Teman said it is his pipe and BRID has no easement.

Dan asked if the water moved by a pump or gravity flow.

Dick Teman said that it is a gravity flow system. He said that the property used to be one larger lot, but he does not want to let multiple property owners use the line.

JR suggested that although there is not an easement, there might be an historic right.

Dick Teman said that in his opinion, BRID will have to make some kind of accommodation and buy an easement. He said that he was in situations before with multiple property owners and it did not turn out well.

JR asked Mr. Teman what the ideal solution is.

Dick Teman said he does know how the applicant will control the water.

Dale asked if Mr. Teman charged Dick Price any money for use of the line.

Dick Teman said he did not.

Dale asked how long the pipeline had been in place; he noted that if there had been no money paid on it for five years, it was grandfathered in.

Ben asked if there had been an agreement that Price could use the pipeline until he sold the land.

Dick Teman said that Dick Price asked to use the easement a long time ago, but there was no formal agreement or stipulations.

Dan asked where the risers were and if future landowners will take water from the risers.

Terry noted that was what BRID approved.

Dan asked where the turnoff valves were located.

Dick Teman said there was a valve on the parcel between his property and the Price's and also another valve at the Price property.

JR asked if BRID has access to the valve on Mr. Teman's property.

Dick Teman said that it does.

Les asked Terry to explain Condition 5. He asked if the road width increases in one area, if it leaves a jog in the road.

Terry said that historically, the County Commissioners have required an easement for half of what is needed for a 60-foot easement from the subdivider. He said that Staff has recommended a 10 foot easement from the Price land. He noted that although the easement is only on paper, it makes for less hassle if the County wanted to expand the road.

Ben asked if there were wells or power lines on the 10-foot easement.

Terry said that typically the only things that have to be moved are mailboxes.

Ben asked Terry's position on the neighbor's concerns about trailers and covenants.

Terry said covenants would make the land worth more. He noted that he will talk with his client, although there are no covenants proposed at this time. He said he does not believe covenants fall under the review criteria.

Dan noted that BRID did not indicate any delivery issues on getting water to the parcel. He wondered if it was an oversight or if there is no real issue.

JR asked if there was at least one turnout for each of the proposed lots.

Terry said there was not, but the pipeline went along the property boundary. He noted that the plans approved by BRID said that risers would be placed on each lot.

JR asked if BRID approved a watering schedule.

Terry said that BRID approved splitting the water to separate entities. He noted that turnouts have to be placed per BRID.

JR asked if there was only one turnout per lot.

Terry said it was not mentioned and the owner knew he would have to replace the existing risers per BRID to size them down.

JR asked if the applicant would be opposed to putting in a condition for one riser on each lot.

Terry said that would be acceptable.

Ben asked Karen if the developer submits proposed covenants if it constitutes new data to the County Commissioners.

Karen said that the Commissioners have to decide if it is relevant and credible information. She noted that unless the proposed covenants address the review criteria such as "public health and safety," it would likely not be considered new information. She noted that covenants are primarily for getting along with neighbors and regulating aesthetics.

Dale noted that the Stevensville School District said it would cost \$5,000 per year for each new student.

Karen said she reads the amount as informational, not a recommendation for a condition, because it lets the Board know there is some level of impact.

Les motioned to approve the subdivision based on findings of fact and subject to the conditions in the Staff Report and that Condition 10 should be for \$125 to both the Lone Rock and Stevensville School Districts on first conveyance and the condition that JR indicated that on internal irrigation line, a riser be placed on each lot by final plat.

Chip seconded the motion.

Ben said that if the irrigation issue turned into a legal problem, the new owners might be forced to buy an irrigation line easement from Dick Teman. He asked if it was appropriate to warn future homebuyers in the final plat that they might not have a water easement.

Karen said it would be reasonable to address impacts on agricultural water user facilities.

Dale said he approves of the subdivision, but does not like the amount of school donation. He asked if the County Commissioners gets a higher impact fee amount from schools if the donation could be changed.

Les said that as he understands it, the County Commissioners cannot impose a higher impact fee.

JR said he did not think it was incumbent on the new landowners to get the easement. He said that the current landowner needs to find out if he has an easement from the ditch company. He suggested that the developer should come up with an easement, even if it is just for maintenance. He noted that the developer is the one that will gain from this split and he should not divide responsibility among six new landowners.

Dan agreed and said he thinks it is Price's responsibility to get the issue worked out.

JR said that the applicant could have an easement by continual use, whether it is in a pipeline or not. He said that the Board cannot give the responsibility for the easement to the landowners because it would put the Board at risk.

Ben noted that regarding schools, the County Commissioners always have the option to ignore what the Board recommends and ask a different amount. He noted that the Board could add a condition that the developer resolve the water easement issue before he can subdivide the land.

JR amended the motion to say Price has to provide proof of easement or establish an easement from Big Ditch to the corner of the property or abandon the water rights.

Ben said he was not in favor of abandoning the water because these parcels turn into knapweed estates without water.

Terry said that if the applicant does not have an easement and cannot get one, the Board's condition could restrict the applicant from subdividing the land altogether.

Ben said he thinks that the applicant can make an agreement.

JR said that the new landowners could sell the water anyway because Big Ditch gives people water only as long as they pay for it. He said he does not think the Board can force the applicant to take the water one way or the other.

Dale seconded the amendment to the motion.

The Board voted on the amendment to the motion; the members voted 8-0 to approve the amendment to the motion.

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion.

(2) Board Decision

The vote was called; the members voted (8-0) to approve the Subdivision. (See Attachment F, Sunnyside Orchards No. 4, Block 21, Lot 8A, AP Vote Sheet)

8. **Close Public Hearing**

9. **Communications from Staff**

Karen said that the interim zoning discussion scheduled for today was postponed to September 6.

Lori said she was confused about why the discussion had to be advertised.

Karen said that it did not have to be advertised as a public hearing, but as an item that the public might be interested in.

Lori noted that then the Board would not be able to discuss anything without advertising for it.

Karen said that if the Board wants to formally add something to the agenda as a discussion item, it should be advertised.

Lori asked if the Board could discuss interim zoning if they did not make a recommendation today.

Karen said it would be better to wait for the next meeting because there was public interest in the matter. She noted that the County Commissioners seem to be asking the Board if they think there is an emergency allowing for interim zoning and to get feedback.

Chip asked if the County Commissioners wanted the Board's opinion or the audience's opinion.

Karen said that the County Commissioners want to hear from the Board, but the public has a right to participate. She said that she will be making maps soon for the Land Use Subcommittee. She also noted that Ben Howell has resigned effective August 25.

Lori asked about the Aspen Springs public meeting before the County Commissioners.

Karen noted that the County Commissioners will have a procedural meeting about the meeting on the morning of the meeting.

Dan asked Staff to send copies to the Board of the Board's recommendation on Aspen Springs to the County Commissioners.

11. **Communications from Public**

There were none.

12. **Communications from Board**

Ben asked why the County Commissioner site visit to Aspen Springs was cancelled.

Karen said that they visiting the site individually because they were concerned about being able to accommodate people in that environment.

Dale said that the TischlerBise impact fee study done for the Florence Carlton School District put the amount of capital impacts at \$10,418 per lot. He said he hopes when the County Commissioners see the report, it will give the School District some teeth. He noted that although the impact study shows a need of \$10,418 per lot, the School District would be happy with \$3,000 to \$5,000. He also noted that three school levies for the new school building failed. (See Attachment G, Impact Fees to Fund Growth-Related Capital Improvements by TischlerBise)

Dan asked if the impact fee study would be considered new information and if the Aspen Springs subdivision would return to the Board for review.

Karen said that impact fees are made at the time of house construction and are for extension of capital facilities. She noted that subdivision law does not allow for exactions for capital facilities for education; therefore, it was probably not an issue.

Chip said that the latest letter from George Corn said that State Law does allow the County to exact non-capital improvements donations for the schools. He said that historically, and in other jurisdictions, they were never allowed to exact for schools.

Ben said that although they cannot exact money for capital expenses related to schools, his interpretation is that the County can exact for books, salaries, transportation, etc.

Chip said that if state law said that, other municipalities and counties in the state would be exacting that money.

Dale noted that TischerBise is reputable and has done impact fee studies for Bozeman, Kalispell, and Missoula.

Ben said that school districts in the County should figure out a reasonable exaction fee that is not covered by impact fees. He said that \$150 is chicken feed when the future homeowner gets off with less than full taxes. He noted that there is a period when new people move in that they are impacting the schools before money is given to fund the schools.

Chip explained that historically, they funded schools through property taxes. He said it was not fair to put the burden of funding schools on the people who are not here yet and who do not have a say when the people already here do not want to fund schools.

JR noted that the schools get money from the state based on the number of students enrolled. He said that the schools do not receive money for facilities. He noted that we cannot build a new school on the back of a new house and commented that maybe the answer is not a \$5,000 one-time fee.

Chip said that the superintendent from Stevensville said he received all the funding he needs except for capital improvements.

Les asked who was going to chair the Land Use Subcommittee now that Gary has left.

Ben said he will think about being the chair. He noted that Gary sent an email which said that density zoning could be completed by spring. He said the issue of whether or not there is an emergency could be how long it would take to enact zoning; if it would take three years, maybe there is an emergency. If it only took six months, emergency zoning is not necessary. (Note: Gary Zebrowski did not say that density zoning could be completed by spring, but thought that beautification for the 93 Corridor, such as landscaping or signage, could be completed by spring or summer. He said that density zoning should be done parallel to beautification, but will take longer to complete.) (See Attachment H, Email from Gary Zebrowski)

Karen said that the Land Use Law Clinic has offered their help to the Board in developing regulations for the Highway Corridor. She noted that MDT has sent planning information they used when working on the road expansion. She said it includes wildlife crossing information and how much use road areas were expected to have.

Chip asked how much effort the Board should put into planning, if initiatives voted on this November could affect their work.

The Board listed the ballot items related to planning: State Initiative 154, SOS, the Open Land Bond, an Interim Zoning Petition by Bitterrooters for Planning, Interim Zoning for Large Scale Retail Sales and Services Establishments, and possibly the Government Study Commission.

Dan said the results of the election will send a strong message to County officials. He noted that the ballot items might get confusing to voters.

Ben asked how the Board could get some articles on I-154.

Karen said that Staff can forward some balanced links on the initiative to the Board. She also noted that Measure 37 from Oregon appears to have kicked off this initiative and others like it in the West.

13. New Business

There was none.

14. Old Business

There was none.

15. Next Regularly Scheduled Meeting: September 6, 2006 at 7:00 p.m.

(A) Roger Russ Subdivision (Russ) Minor Subdivision – Public Hearing

(B) Discussion on Highway 93 Corridor Interim Zoning

16. **Adjournment**

Dan adjourned the meeting at 4:19 p.m.